

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 612 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DIPSING SHANABHAI PARMAR

Versus

SHASHIKANT M SHAH

Appearance:

MR NILESH A PANDYA for Petitioner

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 22/12/2000

ORAL JUDGEMENT

1. This is tenant's revision under sec.29(2) of the Bombay Rent Act against the concurrent judgments and findings of the two courts below.
2. The landlord filed a suit against the tenant, revisionist for eviction, on the ground that 200 sq.feet

land of Survey No.966 was let out to the defendant on monthly rent of Rs.5=00. The tenant fell in arrears of rent from 1-11-1976 to 31-1-1980 amounting to Rs.195=00. Notice under sec.12(2) of the Bombay Rent Act was served on the revisionist on 19-2-1980, but he did not vacate the accommodation nor paid the arrears of rent.

3. The suit was resisted on number of grounds. It was pleaded that the rent was excessive and the demand notice is illegal & invalid. That the tenant is not in arrears of rent from 1-11-1976 to 30-1-1980. The rent was offered but, the landlord refused to accept the same. Plea of non-joinder was also taken by the revisionist. It was also pleaded that the defendant's father was the original tenant, and after his death his heirs became the tenants. But, since the notice was given to the defendant only and suit was filed against him only, it is bad for non-joinder of parties, in as much as, defendant's mother has not been joined as a defendant in this suit.

4. The two courts below found that the rent at the rate of Rs.5=00 was not excessive. It was further found by the two courts below that, the tenant was in arrears of rent exceeding six months (i.e. from 1-11-1976 to 30-1-1980) and the same was not paid within a month of service of notice of demand. It was, therefore, held that the case is covered by sec.12(3)(a) of the Bombay Rent Act and the two courts below had no option but to pass decree for eviction. It was further held that the suit is not bad for non-joinder of necessary parties, nor the notice is illegal and invalid. With these findings, the trial Court decreed the suit. In appeal, the decree of the trial Court was confirmed and the appeal was dismissed. Feeling aggrieved, the tenant has filed this revision.

5. Today, the list was revised thrice but, none appeared from the side of the revisionist in the first sitting, as well as, in the second sitting. The revision was admitted on 17-6-1992. Thereafter, notice was issued to the respondent, which was served but none appeared on behalf of the respondent also.

6. Under the above circumstances, the judgments of the two courts below were examined.

7. I find that this is a case of concurrent findings of facts recorded by the two courts below, which are supported from the material on record, hence this finding can neither be called perverse nor illegal. Concurrent findings of the two courts below which do not suffer from

the above infirmities can not be interfered in this revision. I do not find any merit in this revision, which is hereby dismissed with no order as to cost.

December 22, 2000. [D.C. Srivastava, J.]

/sakkaf